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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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KIMBERLY S. GARCIA,

Plaintiff,

v.

UNIVERSITY OF UTAH,

Defendant.

**REPORT AND RECOMMENDATION  
TO DENY MOTION TO WAIVE THE  
FILING FEE  
(DOC. NO. 2)**

Case No. 2:24-cv-00653

Chief District Judge Robert J. Shelby

Magistrate Judge Daphne A. Oberg

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Plaintiff Kimberly S. Garcia has filed a motion to waive the filing fee.<sup>1</sup> Under 28 U.S.C. § 1915, a federal court may authorize commencement of an action without prepayment of fees by a person who is unable to pay such fees.<sup>2</sup> To qualify for a fee waiver under § 1915, a party must show a financial inability to pay the required filing fee.<sup>3</sup> The District of Utah's local rules require "a party's total monthly income [to] be equal to or below 200% of the United States poverty guideline" to qualify.<sup>4</sup>

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<sup>1</sup> (Doc. No. 2.)

<sup>2</sup> 28 U.S.C. § 1915(a)(1).

<sup>3</sup> *Lister v. Dep't of Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005).

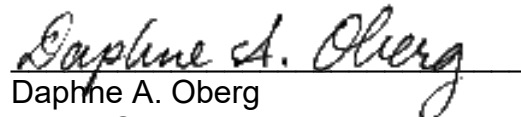
<sup>4</sup> See DUCivR 3-2(a)(1)(A). The local civil rules are available at <https://www.utd.uscourts.gov/sites/utd/files/Civil%20Rules%20Final%202023.pdf>.

Ms. Garcia reports her gross monthly income exceeds 200% of the Federal Poverty Guidelines based on household size. Therefore, she has not shown a financial inability to pay the required filing fee, and she does not qualify for a fee waiver.

Accordingly, the undersigned<sup>5</sup> RECOMMENDS the district judge DENY the motion. The undersigned further recommends Ms. Garcia be given thirty days from the date of the district judge's order to pay the filing fee.<sup>6</sup> The court will send this Report and Recommendation to Ms. Garcia, who is notified of her right to object to it. Any objection must be filed within fourteen days of service.<sup>7</sup> Failure to object may be considered a waiver of objections.

DATED this 9th day of September, 2024.

BY THE COURT:

  
Daphne A. Oberg  
United States Magistrate Judge

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<sup>5</sup> This case is referred to the undersigned magistrate judge under 28 U.S.C. § 636(b)(1)(A). (See Doc. No. 5.)

<sup>6</sup> See DUCivR 3-2(a)(1)(D).

<sup>7</sup> See 28 U.S.C. § 636(b)(1); Fed R. Civ. P. 72(b).